

MEMORANDUM DM 99-05

Date: May 7, 1999

To: All Coal Mine Operators

From: _____
Frank A. Linkous

Subject: VA-WV Reciprocity Agreement For Mine Foremen Certification

The Coal Mine Safety Laws of Virginia make provision under § 45.1-161.33 for reciprocal acceptance of certifications between states. West Virginia and Virginia have recognized mine electrical certifications through reciprocal agreement since 1997. Now, through a Memorandum of Agreement dated April 30, 1999, mine foreman certifications can be issued without requirement for submitting to the complete mine foreman certification process.

Under provisions of the agreement, applicants for mine foreman certification by reciprocity must meet minimal administrative requirements. Also, applicants must submit to and pass the section of the mine foreman certification examination covering the state laws, rules and regulations for the state granting the certification by reciprocity.

Attached to this bulletin is a copy of the memorandum of agreement and a letter outlining administrative procedures to be followed in implementing the agreement.

Should you have any questions concerning this agreement or procedures for implementation, please contact DMME at (540)523-8234 or the West Virginia Office of Miners' Health, Safety and Training at (304)558-1425.

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MEMORANDUM OF AGREEMENT

Certification Reciprocity

This Memorandum of Agreement is made this 1st day of April, 2002, by and between the State of **West Virginia Office of Miner's Health, Safety and Training** (herein **WVM**) and the Commonwealth of Virginia's **Department of Mines, Minerals, and Energy, Division of Mines** (herein **DM**).

Whereas, WVM is the regulatory authority of the State of West Virginia administering the State Mines and Minerals Act, Title 22, and regulations promulgated thereunder, and amendments thereto, as the same may be or become effective any time or from time to time, for the purpose of providing for the health and safety of coal miners.

Whereas, DM is the regulatory authority of the Commonwealth responsible for administering the Virginia Coal Mine Safety Act, Virginia Code § § 45.1-161.7 et. Seq., and the rules and regulations promulgated thereunder, (herein the Mine Safety Act and the Rules and Regulations promulgated thereunder are collectively referred to as "**Mine Safety Act**") for the purpose of providing for the safety and health of coal miners.

Whereas, West Virginia and Virginia share a common border and have coal miners working the same coal beds within the Appalachian Coal Field often with the same operating companies and employing coal miners and agents who are mobile within the region, transferring and moving from one state to the other, seeking to perform comparable duties as qualified and certified persons.

Whereas, West Virginia and Virginia recognize the common benefit for coal mining citizens and operators in entering a reciprocity agreement whereby certified coal mine foremen and electricians who have demonstrated competency through certification within one state can gain certification within the neighboring state.

Whereas, Section 4 VAC 25-20-40 of the Board of Coal Mining Examiners Certification Requirements authorize the DMME to accept by reciprocity, persons certified by states which accept the corresponding Virginia certification and whose certification requirements are substantially equivalent to Virginia.

Whereas, § 22A-1-39 of the West Virginia Code authorizes the Director of the West Virginia Office of Miners' Health, Safety and Training, in consultation with the West Virginia Board of Miner Training, Education and Certification, to offer reciprocity of mine foremen and/or experienced miner certifications to persons certified by states which accept West Virginia's mine foreman and/or experienced miner certifications, so long as the other state's qualification, examination, and certification criteria are equivalent to those utilized by West Virginia.

Whereas, it is anticipated that a number of certified coal mine foremen and electricians will make application to WVM and DM to attain comparable certification by reciprocity.

Whereas, to efficiently and effectively administer a program for coal mine foreman and electrician certification reciprocity, WVM and DM desire to enter into this Memorandum of Agreement.

Now, Therefore, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. This agreement shall not be construed as a delegation of authority from the Director of WVM (herein **Director**) to the Chief of the Division of Mines (herein **Chief**), nor from the Chief to the Director and nothing herein contained shall be construed to hinder, prevent, or impede the Director or Chief from performing any duty or serving any function permitted or required by the respective Mine Safety Acts.
2. The Director, West Virginia Office of Miner's Health, Safety and Training, and the Chief, Commonwealth of Virginia, Department of Mines, Minerals, and Energy, Division of Mines, shall serve as liaisons to facilitate communication and cooperation between WVA and DM under this Memorandum of Agreement.
3. The Director and Chief shall appoint a Reciprocity Coordinator to develop and implement written procedures for the administration of this reciprocity agreement.
4. The Reciprocity Coordinators shall schedule and conduct within 90 days of this agreement, a comprehensive, joint review of each state's certification program, and policies and procedures for the purpose of gaining understanding of each other's program. Regular meetings will be conducted by coordinators to ensure that both programs maintain comparable, high standards for certification of applicants.
5. Both states agree to share and copy records and other information, and work toward a system for electronic capability to facilitate this effort.
6. In order to ensure that certified mine foremen are aware of and understand the particular state laws, rules and regulations applying within the state granting reciprocity, the applicant must take the component of that State's mine foreman examination that pertains to the specific state mining laws and rules, and must pass the examination with a score of at least eighty percent.
7. Mine foreman continuing education, where required, must be met in accordance with established state standards.
8. Both states agree to provide information related to suspension and de-certification actions taken against any certified person. Any such action involving a person holding a certification by reciprocity will be formally reviewed by the Reciprocity Coordinators.
9. Nothing in this Memorandum of Agreement shall relieve mine operators or certified agents of the operators, of their responsibility to comply with applicable provisions of law and regulations.
10. This Memorandum of Agreement may be modified in writing by mutual consent of the parties.
11. This Memorandum of Agreement may be terminated at any time by either party giving written notice to the other party at least 90 days prior to the date termination is to take place.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto in manner and form sufficient to bind them as of the day and year first written.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS,
MINERS' HEALTH, SAFETY
AND ENERGY, DIVISION OF MINES

WEST VIRGINIA
OFFICE OF
AND TRAINING

By _____

By _____

Frank A. Linkous, Chief

Director

Doug Conaway,